

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENNETH GAY, on behalf of himself
and all others similarly situated,

Plaintiff,

Case No. 2:18-cv-10539

v.

Hon. Marianne O. Battani

GENERAL MOTORS COMPANY,

M.J. Anthony P. Patti

Defendant.

**JOINT NOTICE OF COMPANION CASE
AND REQUEST FOR REASSIGNMENT**

Pursuant to Local Rule 83.11(b)(7), Plaintiff Kenneth Gay and Defendant General Motors Company (“GM”) jointly provide notice that this action is a companion case to MDL No. 2818, captioned *In re: General Motors Air Conditioning Marketing and Sales Practices Litigation*, which is assigned to the Honorable Matthew F. Leitman. Both the MDL and this case involve “substantially similar evidence [to be] offered at trial,” and arise from “the same transaction or occurrence,” namely the allegedly faulty air conditioning system in several GM trucks and SUVs. LR 83.11(b)(7)(A)(i), (ii). Because the MDL is the earlier filed case, reassignment of this companion case to Judge Leitman is appropriate under Local Rule 83.11(b)(7)(A).

This case is one of 13 actions that have been filed around the country making common allegations of faulty air conditioning systems in several GM trucks and SUVs. On February 1, 2018, the Judicial Panel on Multidistrict Litigation (“JPML”) created MDL No. 2818, captioned *In re: General Motors Air Conditioning Marketing and Sales Practices Litigation* so that these related cases could be coordinated or consolidated for pretrial proceedings. *See In re Gen. Motors Corp. Air Conditioning Mktg. & Sales Practices Litig.*, --- F. Supp. 3d ----, 2018 WL 671861 (J.P.M.L. Feb. 1, 2018). The JPML selected the Eastern District of Michigan as the transferee forum for this MDL, and selected Judge Leitman as the judge to preside over it.

Gay filed this action on February 14, 2018—almost two weeks after the MDL was created and assigned to Judge Leitman. On February 20, 2018, Gay filed a notice of related action in the MDL, effectively requesting that this case be transferred into the MDL pending before Judge Leitman. *See* MDL No. 2818, Dkt. 38 (J.P.M.L. Feb. 20, 2018).

That same day, the JPML declined to take action on Gay’s notice, stating that “[b]ecause the actions listed originated in the transferee district, no further action by the Panel is required.” MDL No. 2818, Dkt. 39 (J.P.M.L. Feb. 20, 2018). Indeed, pursuant to JPML Rule 7.2(a), “[p]otential tag-along actions filed in the transferee district do not require [JPML] action. A party should request assignment of such

actions to the Section 1407 transferee judge in accordance with applicable local rules.” In other words, the only way for a related case to be transferred to an MDL pending in the same district is via the district’s own reassignment rules.

The parties agree that reassignment of this case to Judge Leitman will promote judicial efficiency, preserve the resources of the Court and the parties, and avoid the risk of duplicative proceedings or inconsistent rulings. Indeed, if this action had been filed outside of the Eastern District of Michigan, it would have been assigned to Judge Leitman by the JPML. As a result, the parties agree that this case is a “companion case” to MDL No. 2818 because both actions involve “the same or related parties … and the cases arise out of the same transaction or occurrence.” LR 83.11(b)(7)(A)(ii).

For these reasons, the parties respectfully request that this Court reassign this case to the Honorable Matthew F. Leitman so that it can be treated as a companion case to MDL No. 2818, and enter the Order attached as Exhibit 1, pursuant to Local Rule 83.11(b)(7).

DATE: March 22, 2018

/s/ Ronald Weiner

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on March 22, 2018 I electronically filed the foregoing with the Clerk of the Court using the ECF system which will notify all counsel of record authorized to receive such filings.

/s/ Daniel Lacombe
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